

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
NOV - 1 1995  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Toll Free Service Access Code

CC Docket No. 95-155

DOCKET FILE COPY ORIGINAL

COMMENTS

ALLNET COMMUNICATION SERVICES, INC

Roy L. Morris  
Director  
1990 M Street, NW, Suite 500  
Washington, D.C. 20036  
(202) 293-0593

Dated: November 1, 1995

No. of Copies rec'd  
List ABCDE

012

## **Summary**

These comments make the following important points:

1) The proper pricing for occupying an 800/888 number will clear up most of the problems identified in the NPRM with regard to warehousing and inefficiency.

2) Adherence to the first-come-first-served principle and a modified rationing plan up to the March 1, 1996 888 turnup will address all of the "conflict" resolution problems.

3) DSMI, a BOC agent, should not administer the SMS.

4) The 888 DA number should be auctioned to another party, besides AT&T.

The Commission should not adopt regulations that are highly intrusive and burdensome on the marketing and offering 800/888 services.

## Table of Contents

Issue 1: There Should Be No Prohibitions on Promotions .....	2
Issue 2: Two Tiered Monthly Charges, Not Deposits, Should Be Employed .....	3
Issue 3: The Times for Reservation and Aging Should Not Be Altered .....	5
Issue 4: The Commission should not "Promote" any Particular Marketing Method .....	5
Issue 5: First-Come-First-Served Should Be the Only Criteria for Obtaining 800/888 Numbers .....	6
Issue 6: Current Allocations Should Be Adjusted, But Maintained Until March 1, 1995 .....	6
Issue 7: A Fifty Percent Threshold Should Be Used for the Start of the Next Toll Free Code Deployment .....	7
Issue 8: Properly Defined "Warehousing" is Unlawful Under Title II .....	8
Issue 9: First-Come-First Served Is the Only Proper Standard for Administering 800 and 888 Numbers .....	9
Issue 10: The 1-888-555-1212 Number Should Be Auctioned to an Entity Other Than AT&T .....	10
Issue 11: An Independent Non-Carrier, Who Does Not Compete for Numbering Resources, Should Administer the SMS .....	11
Issue 12: A Circuit Breaker Is A Reasonable Approach .....	11

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
NOV - 1 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Toll Free Service Access Code

CC Docket No. 95-155

COMMENTS

Allnet Communication Services, Inc.<sup>1</sup> hereby submits these comments to the Commission in response to its Notice of Proposed Rulemaking, released on October 5, 1995 (NPRM). The NPRM raises a number of issues regarding the proper treatment of 800 and 888 number administration over the next several years. Specifically, the FCC has asked for comments on a number of issues regarding the implementation of new 888 SAC and preservation of all toll free numbers.

The guiding principle of the Commission on these matters should be to employ carefully crafted unobtrusive regulations to avoid future shortages and to preserve the integrity of the "toll free" nature of 800/888 services. The solution is to institute simple pricing rules to assure that a holder of an 800/888 number "pays" the economic costs that holder imposes on the telecommunications community, as a whole. The proper "pricing" of 800/888 numbers will address the problems of hoarding and inefficient use of 800/888 numbers. With the goal of efficient 800/888 number pricing in mind, responses to the Commission's issues are set forth below.

---

<sup>1</sup>Allnet is a member of the Frontier family of companies.

**Issue 1: There Should Be No Prohibitions on Promotions**

The first issue raised by the NPRM is whether the Commission should bar the distribution of an 800/888 number to a customer without a customer request for such number (e.g., as a "promotion")? NPRM at ¶13. The Commission should not prohibit such distributions for a number of reasons.

This proposal is an economically inefficient solution to a more generic problem. Barring the distribution of 800/888 numbers to a customer who has not made an explicit request for that number would severely inhibit the marketing of services that use those numbers. The proposal raises a pandora's box of ambiguity in interpretation that will have a chilling effect on many marketing activities. For example, the Commission has not defined what constitutes a request for an 800/888 number. Must a request be in writing? Must it contain certain operative language. Is such a request necessary where the 800/888 number is a means of providing a service that needs a toll free capability (e.g, paging)?

The proposed rule is a highly intrusive and indirect means that misfires in its attempt to address the core problem of the distribution of 800/888 numbers to low volume users -- whether resulting from a customer request or not. A properly priced monthly fee on each 800 number, which reflects the economic opportunity of each 800 number, is a more direct and economically efficient manner of promoting conservation while allowing marketing and pricing flexibility among carriers. Less intrusive and economically efficient means of promoting such conservation are discussed in more detail in response to the next issue.

## **Issue 2: Two Tiered Monthly Charges. Not Deposits. Should Be Employed**

The next major issue raised in the NPRM is whether the Commission should require deposits on 800/888 numbers held in reserve status, which deposit would be returned when the number is disconnected or a certain amount of traffic is generated. NPRM at ¶14. The Commission's proposal adds that deposits of firms found to be warehousing or hoarding would not be returned.

The Commission should seek a means of setting an "economically efficient" price for 800/888 number reservation in order to assure that the numbers are used efficiently. Whether in the form of a deposit or a monthly charge, a properly structured price should signal to the consumer the economic cost of holding an 800 number. It is unclear whether deposits are the most efficient means of sending this price signal because the "cost of a deposit" is only the time value of money for that deposit. Thus, the deposit would have to be high enough so that the time value of losing the use of that deposit money would be equal to the economic price of holding the 800 number. Moreover, a deposit mechanism would entail a very complex administrative accounting system for determining when a deposit should be received, refunded, or sacrificed.

A better and more direct alternative would be the implementation of a higher monthly fee for low volume 800 numbers. The SMS could have available the information for such a system to bill these large monthly fees. A two tiered monthly rate is proposed: one for large volume users and another for low (or no) volume users.

Today, a single tiered monthly fee is currently assessed, but it is not a function of usage. The proposal would require that if an 800/888 number fails to reach a preset monthly usage level of 25 minutes (or about five calls) within 45 days of going

into reservation or working status, a higher monthly charge of \$5 per month would be collected from the RespOrg.<sup>2</sup> Whenever the usage level increases above that threshold, the monthly rate will drop down to the nominal monthly rate in effect today.<sup>3</sup> A drop below the threshold would cause the higher charge to be assessed. The excess revenues of the higher fee could be contributed to the US Treasury (as is currently done with auction proceeds), used by the SMS operator to implement any changes to relieve future shortages, or even used to reduce the nominal monthly rate that is applied to larger users.<sup>4</sup>

The proposed two tiered or variable level monthly charges, if properly set, would address the potential scarcity problems that now occur due to hoarding. This single economic approach would eliminate the need for other more onerous forms of regulation of 800/888 distribution and marketing.

---

<sup>2</sup>The \$5 higher monthly fee is based on a study of both commercial and residential traffic characteristics, i.e., minutes of use per 800 number. There is a bipolar distribution which has its first peak between 0 and 25 minutes of use per month and its second peak at 300 plus minutes of use per month for commercial and 50 plus minutes of use per month for residential. Thus, a uniform distinguishable group of "less than 25 minutes of use" per month exists in both the commercial and residential sector. At 20 cents per minute in revenue, the \$5 per month fee represents a marginal "break even" point for the IXC.

<sup>3</sup>The current nominal monthly rate is 79 cents per number per month.

<sup>4</sup> Another alternative would be to apply a uniform variable monthly rate to all 800/888 numbers where such rate would increase if and when a shortage of numbers occurs and grows. For example, the monthly rate could double when 80% of all numbers were used, double again when 90% of all numbers were used, double again when 95% of all numbers were used, and so on. This pricing method would be most efficient if it were imposed directly on each end user by the end user's primary interexchange carrier.

### **Issue 3: The Times for Reservation and Aging Should Not Be Altered**

The Commission next asks whether the times allowed for holding a number in reservation should be reduced from 60 to 45 or 30 days and whether the aging period should be reduced from six to 4 months. NPRM at ¶17.

It is our understanding that Service Management System ("SMS/800") National Administration Committee ("SNAC") has taken the position that the reservation and aging periods should not be changed. We support this view. The reasons for the SNAC view are that there are several drawbacks to making these changes. Specifically, the long reservation period is needed to synchronize turnup of facilities (such as T1 facilities) for the customer. Also, any shorter period could be easily gotten around using the "re-reservation" function of the SMS. As for aging, the SNAC concluded that the existing 6 month period was a systematic minimum. There are many problems for new customers of a prematurely aged 800 number. The first is that these customers will receive many calls from callers to the original user of the 800 number. Second, if the number was disconnected for nonpayment, the old customer may reconsider paying their charges part-way into the six month period. If the six month period is shortened, the customer is unlikely to be able to retrieve their original number because it is likely to have been reassigned.

In sum, these time frames should not be changed.

### **Issue 4: The Commission should not "Promote" any Particular Marketing Method**

The next issue raised by the Commission is whether it should reward or encourage the use of "PINs" with 800/888 numbers for low volume accounts? We disagree with this proposal.

If the Commission properly imposes a higher monthly charge on low volume users, the economic incentives will be in place to encourage the use of PINS or any other method of efficiently sharing or otherwise using 800/888 numbers. The FCC should not develop a plan that would narrowly encourage or reward only the "PIN" solution to this shortage problem. Such an approach would act to the detriment of other possible solutions to efficient utilization of 800/888 numbers.

Other solutions will likely be developed that are superior. But, these yet to be made available superior alternatives will not be used if only the "PIN" solution is promoted or otherwise "subsidized."

In sum, the only "rewards" should be for efficient use of 800/888 numbers, not for the method by which those efficiencies are achieved.

***Issue 5: First-Come-First-Served Should Be the Only Criteria for Obtaining 800/888 Numbers***

The Commission next raises the question of whether if a certain 888 number is requested by more than one end user before the 888 SAC is opened up, should "dispute resolution" be required or should there be a lottery? NPRM at ¶23.

The only solution to this problem is that the Commission should adhere to a "first come first served" criteria for the distribution of 800/888 numbers. The use of "first come first served" resolves -- at the outset -- any potential "dispute." Therefore, no "dispute" needs to be resolved with first come first served.

***Issue 6: Current Allocations Should Be Adjusted, But Maintained Until March 1, 1995***

The Commission next asks whether there should there be a gradual opening up

of 888 toll free numbers to prevent immediate depletion, or if there should there be a limit on the quantity that can be drawn in a given time period? NPRM at ¶24.

The Commission should use its existing allocations of 800 numbers as a basis for allocating 800 and 888 numbers up until the time the 888 numbers become active (March 1, 1996). When the pre-reservation period begins, each RespOrg's overall weekly allocation should be increased by a uniform percentage.<sup>5</sup> This increased allocation should be usable for both 888 or 800 reservations -- either in fixed proportions,<sup>6</sup> or with no fixed proportions (thus forcing a carrier to trade off part of its allocation to 888 pre-reservations). When the 888 numbers become active, all allocations should be lifted. If the Commission properly sets a monthly fee (as described above), it would be a very costly strategy to embark upon hoarding activity.

***Issue 7: A Fifty Percent Threshold Should Be Used for the Start of  
the Next Toll Free Code Deployment***

The Commission next inquires as to what threshold should be used for the 888 SAC to trigger deployment of the next toll free code? NPRM at ¶27. We urge that a level of 50% of the 888 SAC be used as the trigger for deployment of the next toll free code. Based on the industry's experience with 800 shortages, this should provide more than ample time to assure that no future shortage would occur.

---

<sup>5</sup>SNAC proposes that the existing allocations be doubled in "Week 1" (January 14-21), tripled in Weeks 2-6, etc.

<sup>6</sup>eg., SNAC proposes that one third of each allocation be usable for 800 and two thirds for 888.

### **Issue 8: Properly Defined “Warehousing” is Unlawful Under Title II**

The Commission next inquires as to whether warehousing by communications service providers is an unreasonable practice subject to Title II of the Communications Act? The Commission also asks whether the Commission has authority to penalize RespOrgs for such practices, whether it should require each RespOrg to certify that each 800 number is associated with a customer who will be billed for such traffic, and whether subscribers of nonworking numbers (i.e., where the number is assigned but not actually being used) should be required to provide such certification?

The threshold question that must be addressed is what constitutes “warehousing.” A clear definition is required if a forfeiture or damages action is to be taken against a carrier. The Commission should consider developing a definition that is based on a percentage greater than the carrier’s established need.<sup>7</sup>

Once properly defined, warehousing by communications services providers should be deemed an unreasonable practice. It interferes with efficient communications, 47 U.S.C. §151, and the ability of interstate communications customers to obtain service on a reasonable basis, 47 U.S.C. §201(b). The Commission has authority to impose damages or forfeitures, if required, for such unlawful conduct. 47 U.S.C. §208 and §503. Certifications by end users would be cumbersome and of questionable usefulness. Similarly, there is a question as to whether the Commission has jurisdiction over non-carrier RespOrgs. The FCC should, therefore, restrict the RespOrg function to carrier entities if it wants to assure

---

<sup>7</sup>eg., 15% greater than the need for any three months, or 25% greater than the need for a single month.

that it has jurisdiction over all RespOrgs.

Rather than have end user's certify as to why they have non-working numbers, all nonworking numbers should simply be required to be returned to the aging pool of numbers within 90 days of the beginning of a period of non-usage. There is no valid reason why an end user should be allowed to hold an 800 number that has not been used once in the last 90 days.

***Issue 9: First-Come-First Served Is the Only Proper Standard for Administering 800 and 888 Numbers***

The Commission next asks whether existing holders of 800 numbers have a right of first refusal to comparable 888 numbers? (e.g., should the holder of 1-800-COLLECT have the right of first refusal to 1-888-COLLECT). NPRM at ¶¶35-47. It also asks whether the exercise of such right should require payment of a fee or competitive bid and whether assignment of comparable 888 numbers should be limited to firms with different SIC codes than the holder of their 800 number counterpart.

Again, there is no reason to carve out an exception to the first-come-first-served principle of 800/888 number distribution. Parties who have advocated that there is some great interest that the FCC must provide independent trade protection are very much misguided. The Commission does not need to delve into this arena. To those parties who are concerned with confusion in the marketplace, existing unfair trade and intellectual property laws provide the necessary protections. There is no

nexus between these concerns and the realm of numbering administration.<sup>8</sup>

In sum, the Commission should not impose any additional requirements for obtaining 888 numbers over and above the first come first served requirement. Moreover, the Commission should reiterate that end users have no ownership interests in 800 or 888 numbers, but instead they only have a limited, and revocable right to use. In keeping with this established limited right, there is no need for competitive bidding (nor would it make any sense) or the requirement for the payment of a right to a number, or a right of first refusal.

***Issue 10: The 1-888-555-1212 Number Should Be  
Auctioned to an Entity Other Than AT&T***

The Commission next asks whether the 1-888-555-1212 should be used for toll free directory assistance? NPRM at ¶48. We agree that the 1-888-555-1212 number should be used for toll free directory assistance. Furthermore, this number should be auctioned off to some non-carrier other than AT&T to allow some form of directory assistance competition.

---

<sup>8</sup>The illogic of urging that 800 users might somehow have squatters rights for some similar 888 number is both absurd and without precedent. Taken to its logical extreme, advocates for these positions would block out or otherwise lay claim to every number combination (including DDD numbers) whose equivalent alphabet combination might be confused or sound like the their 800 number. The 800 guidelines, which are endorsed by the Commission, have specifically determined that there are no ownership rights in 800 (or 888) numbers. The parties who use 800 and 888 numbers take under those terms -- this is no time to change the rules of the game and claim there is any ownership interest of any type.

**Issue 11: An Independent Non-Carrier, Who Does Not Compete for Numbering Resources. Should Administer the SMS**

DSMI is a Bell Operating Company Affiliate. NPRM at ¶¶49. At the November 1, 1995 888 Implementation Meeting of the FCC, DSMI publicly admitted that it is not an independent party and that it answers to the Bell Operating Companies. Moreover, it admitted, and the BOCs at the meeting confirmed, that DSMI, as the BOC's agent, may share IXC specific 800/888 information with the BOCs. This would include information that DSMI would not share with non-BOCs, but which information is proprietary to the IXCs. Given that the Bell Operating Companies are RespOrgs and compete in the 800/888 markets, there is no justification for DSMI (or any other Bell Operating Company affiliate or organization that reports to the BOCs and/or would freely share competitor information with the BOCs) to administer the SMS. Thus, DSMI should not administer the SMS. Similarly, the SMS should not be owned or be affiliated with any carrier that provides 800/888 services and, thus, competes for numbering resources. The conflict of interest is too great and the competitive temptation too large to allow such arrangements to exist. DSMI has, over the years, shown a bias for its owners and its owners have often covered for DSMI's shortcomings.<sup>9</sup>

**Issue 12: A Circuit Breaker Is A Reasonable Approach**

Finally, the Commission asks whether there should be a requirement that

---

<sup>9</sup>A good example of this symbiotic protectionist relationship has been with the failure of DSMI, Bellcore, and the BOCs to get the 888 SAC up and running in a timely manner. Each of these parties found the other's tardiness in performing their respective activities perfectly reasonable.

each RespOrg implement a "circuit breaker" to restrict toll free number consumption when it is announced that the exhaust date for the current toll free code is near

We support the circuit breaker method to restrict toll free number consumption when it is announced that the exhaust date for the current toll free code is near. A circuit breaker would allow a "soft landing" to a shortage situation, rather than the crisis situation that has occurred in the 800/888 situation.

Respectfully submitted,  
ALLNET COMMUNICATION SERVICES, INC



Roy L. Morris

Director

1990 M Street, NW, Suite 500

Washington, D.C. 20036

(202) 293-0593

Dated: November 1, 1995